

REFERENCE TITLE: immigration enforcement mission; council; appropriations

State of Arizona
House of Representatives
Forty-seventh Legislature
Second Regular Session
2006

HB 2582

Introduced by
Representatives Pearce, Barnes, Biggs, Boone, Farnsworth, Gorman, Gray C,
Mason, Paton, Pierce, Smith: Allen J, Anderson, Chase, Groe, Nichols,
Stump, Weiers J, Yarbrough, Senators Burns, Gould, Harper, Johnson,
Martin, Verschoor

AN ACT

CHANGING THE DESIGNATION OF TITLE 41, CHAPTER 12, ARTICLE 1, ARIZONA REVISED STATUTES, TO "GENERAL PROVISIONS"; AMENDING TITLE 41, CHAPTER 12, ARTICLE 1, ARIZONA REVISED STATUTES, BY ADDING SECTION 41-1702; AMENDING TITLE 41, ARIZONA REVISED STATUTES, BY ADDING CHAPTER 20; AMENDING TITLE 41, CHAPTER 27, ARTICLE 2, ARIZONA REVISED STATUTES, BY ADDING SECTION 41-3016.01; MAKING APPROPRIATIONS; RELATING TO BORDER SECURITY.

(TEXT OF BILL BEGINS ON NEXT PAGE)

Be it enacted by the Legislature of the State of Arizona:

Section 1. Heading change

The article heading of title 41, chapter 12, article 1, Arizona Revised Statutes, is changed from "DEFINITIONS" to "GENERAL PROVISIONS".

Sec. 2. Title 41, chapter 12, article 1, Arizona Revised Statutes, is amended by adding section 41-1702, to read:

41-1702. Federal immigration laws; enforcement; definition

A. TO THE EXTENT PERMITTED BY FEDERAL LAW AND NOTWITHSTANDING ANY OTHER STATE LAW, PEACE OFFICERS ARE FULLY AUTHORIZED TO INVESTIGATE, APPREHEND, DETAIN OR REMOVE ALIENS IN THE UNITED STATES, INCLUDING TRANSPORTING ALIENS ACROSS STATE LINES TO DETENTION CENTERS, IN THE ENFORCEMENT OF THE IMMIGRATION LAWS OF THE UNITED STATES.

B. FOR THE PURPOSES OF THIS SECTION, "PEACE OFFICER" HAS THE SAME MEANING PRESCRIBED IN SECTION 13-105.

Sec. 3. Title 41, Arizona Revised Statutes, is amended by adding chapter 20, to read:

CHAPTER 20

BORDER SECURITY COUNCIL

ARTICLE 1. GENERAL PROVISIONS

41-2351. Border security council; members; powers and duties; fund; limitation

A. A BORDER SECURITY COUNCIL IS ESTABLISHED CONSISTING OF THE FOLLOWING MEMBERS:

1. THE DIRECTOR OF THE DEPARTMENT OF PUBLIC SAFETY OR THE DIRECTOR'S
DESIGNEE.

2. ONE MEMBER OF THE HOUSE OF REPRESENTATIVES WHO IS APPOINTED BY THE SPEAKER OF THE HOUSE OF REPRESENTATIVES.

3. ONE MEMBER OF THE SENATE WHO IS APPOINTED BY THE PRESIDENT OF THE SENATE.

4. ONE MEMBER OF THE PUBLIC WHO IS APPOINTED BY THE SPEAKER OF THE HOUSE OF REPRESENTATIVES.

5. ONE MEMBER OF THE PUBLIC WHO IS APPOINTED BY THE PRESIDENT OF THE SENATE.

6. ONE MUNICIPAL LAW ENFORCEMENT MEMBER WHO IS APPOINTED BY THE ARIZONA ASSOCIATION OF CHIEFS OF POLICE FROM A SOUTHERN ARIZONA BORDER CITY.

7. TWO COUNTY LAW ENFORCEMENT MEMBERS WHO ARE APPOINTED BY THE ARIZONA COUNTY SHERIFFS ASSOCIATION, ONE OF WHOM SHALL BE FROM A COUNTY WITH A POPULATION OF MORE THAN ONE MILLION FIVE HUNDRED THOUSAND PERSONS AND ONE OF WHOM SHALL BE FROM A SOUTHERN ARIZONA BORDER COUNTY.

8. ONE CITY PROSECUTOR WHO IS APPOINTED BY THE ARIZONA PROSECUTING ATTORNEYS ADVISORY COUNCIL.

9. TWO COUNTY ATTORNEYS WHO ARE APPOINTED BY THE ARIZONA PROSECUTING ATTORNEYS ADVISORY COUNCIL, ONE OF WHOM SHALL BE FROM A COUNTY WITH A POPULATION OF MORE THAN ONE MILLION FIVE HUNDRED THOUSAND PERSONS.

1 B. MEMBERS APPOINTED PURSUANT TO SUBSECTION A, PARAGRAPHS 4 THROUGH 9
2 OF THIS SECTION SHALL SERVE STAGGERED THREE YEAR TERMS.

3 C. MEMBERS APPOINTED PURSUANT TO SUBSECTION A, PARAGRAPHS 1, 2 AND 3
4 OF THIS SECTION SHALL SERVE AS ADVISORY NONVOTING MEMBERS OF THE COUNCIL.

5 D. THE VOTING MEMBERS OF THE COUNCIL SHALL ANNUALLY ELECT A
6 CHAIRPERSON FROM AMONG THE MEMBERS AND A MEMBER SHALL NOT SERVE CONSECUTIVE
7 TERMS AS CHAIRPERSON.

8 E. MEMBERS OF THE COUNCIL ARE NOT ELIGIBLE TO RECEIVE COMPENSATION BUT
9 MEMBERS WHO ARE APPOINTED PURSUANT TO SUBSECTION A, PARAGRAPHS 4 THROUGH 9 OF
10 THIS SECTION ARE ELIGIBLE FOR REIMBURSEMENT OF EXPENSES PURSUANT TO TITLE 38,
11 CHAPTER 4, ARTICLE 2.

12 F. THE BORDER SECURITY COUNCIL MAY USE THE FACILITIES FOR MEETINGS AND
13 THE STAFF OF THE DEPARTMENT OF PUBLIC SAFETY.

14 G. THE BORDER SECURITY COUNCIL MAY ENTER INTO INTERAGENCY AGREEMENTS
15 FOR COUNCIL BUSINESS.

16 H. THE BORDER SECURITY COUNCIL SHALL:

17 1. MAKE GRANTS FROM ONE-HALF OF THE MONIES IN THE BORDER SECURITY FUND
18 ESTABLISHED BY SUBSECTION I OF THIS SECTION TO COUNTIES FOR INCARCERATION
19 INFRASTRUCTURE, INCLUDING PERMANENT, TEMPORARY AND MOVABLE DETAINMENT
20 FACILITIES AND TENTS FOR IMMIGRATION CONTROL.

21 2. MAKE GRANTS FROM ONE-HALF OF THE MONIES IN THE BORDER SECURITY FUND
22 ESTABLISHED BY SUBSECTION I OF THIS SECTION TO CITY, TOWN AND COUNTY LAW
23 ENFORCEMENT AGENCIES THAT APPLY FOR MONIES FOR BORDER SECURITY PERSONNEL,
24 PHYSICAL BARRIERS AND ANY OTHER IMMIGRATION ENFORCEMENT PURPOSES.

25 3. RECEIVE QUARTERLY REPORTS FROM THE ENTITIES RECEIVING GRANTS AND
26 EVALUATE THEIR EFFECTIVENESS.

27 4. ON OR BEFORE DECEMBER 1 OF EACH YEAR, SUBMIT A WRITTEN REPORT ON
28 THE EFFECTIVENESS OF THE GRANTS PROVIDED TO THE GOVERNOR, THE SPEAKER OF THE
29 HOUSE OF REPRESENTATIVES AND THE PRESIDENT OF THE SENATE AND PROVIDE A COPY
30 OF THIS REPORT TO THE SECRETARY OF STATE AND THE DIRECTOR OF THE ARIZONA
31 STATE LIBRARY, ARCHIVES AND PUBLIC RECORDS.

32 I. THE BORDER SECURITY FUND IS ESTABLISHED CONSISTING OF LEGISLATIVE
33 APPROPRIATIONS, GIFTS, GRANTS, ANY CRIMINAL SURCHARGES FOR ANY OFFENSE
34 RELATED TO IMMIGRATION CONTROL, AS DETERMINED BY THE COUNCIL, AND,
35 NOTWITHSTANDING ANY OTHER LAW, FOR FISCAL YEARS 2006-2007 THROUGH 2010-2011,
36 ALL ASSESSMENTS RECEIVED BY THE STATE TREASURER PURSUANT TO SECTION 5-396,
37 SUBSECTION J, SECTION 5-397, SUBSECTION D, PARAGRAPH 5, SECTION 28-1381,
38 SUBSECTION I, PARAGRAPH 5 AND SUBSECTION K, PARAGRAPH 6, SECTION 28-1382,
39 SUBSECTION D, PARAGRAPH 7 AND SUBSECTION F, PARAGRAPH 7, SECTION 28-1383,
40 SUBSECTION J, PARAGRAPH 5, SECTION 28-8284, SUBSECTION D, PARAGRAPH 5,
41 SECTION 28-8286, PARAGRAPH 7, SECTION 28-8287, SUBSECTION A, PARAGRAPH 7 AND
42 SECTION 28-8288, SUBSECTION A, PARAGRAPH 6. THE BORDER SECURITY COUNCIL
43 SHALL ADMINISTER THE FUND. MONIES IN THE FUND ARE CONTINUOUSLY APPROPRIATED
44 AND ARE EXEMPT FROM THE PROVISIONS OF SECTION 35-190 RELATING TO LAPSLING OF
45 APPROPRIATIONS. ON NOTICE FROM THE BORDER SECURITY COUNCIL, THE STATE

1 TREASURER SHALL INVEST AND DIVEST MONIES IN THE FUND AS PROVIDED IN SECTION
2 35-313, AND MONIES EARNED FROM INVESTMENTS SHALL BE CREDITED TO THE FUND.

3 J. NOTWITHSTANDING ANY OTHER LAW, MONIES IN THE BORDER SECURITY FUND
4 SHALL NOT BE GRANTED TO ANY CITY, TOWN OR COUNTY:

5 1. THAT HAS A STATED OR IMPLIED SANCTUARY POLICY INVOLVING ANY FORM OF
6 AID TO ILLEGAL IMMIGRANTS OR ANY REDUCED ENFORCEMENT OF ILLEGAL IMMIGRATION.

7 2. THAT DOES NOT EITHER DETAIN OR REFER TO APPROPRIATE FEDERAL
8 AGENCIES ALL ILLEGAL IMMIGRANTS.

9 Sec. 4. Title 41, chapter 27, article 2, Arizona Revised Statutes, is
10 amended by adding section 41-3016.01, to read:

11 41-3016.01. Border security council; termination July 1, 2016

12 A. THE BORDER SECURITY COUNCIL TERMINATES ON JULY 1, 2016.

13 B. TITLE 41, CHAPTER 20 IS REPEALED ON JANUARY 1, 2017.

14 Sec. 5. Initial terms of members

15 A. Notwithstanding section 41-2351, Arizona Revised Statutes, as added
16 by this act, the initial terms of members of the border security council
17 appointed pursuant to section 41-2351, subsection A, paragraphs 4 through 9,
18 Arizona Revised Statutes, as added by this act, are:

19 1. Two terms ending January 1, 2008.

20 2. Three terms ending January 1, 2009.

21 3. Three terms ending January 1, 2010.

22 B. The appointing authorities shall make all subsequent appointments
23 as prescribed by statute.

24 Sec. 6. Purpose

25 Pursuant to section 41-2955, subsection E, Arizona Revised Statutes,
26 the purpose of the border security council is to make grants to political
27 subdivisions for border security.

28 Sec. 7. Appropriations: purposes: reports: billing: exemption

29 A. The following sums are appropriated from the state general fund in
30 fiscal year 2006-2007 for the purposes indicated:

31 1. \$15,000,000 to the border security fund established by section
32 41-2351, Arizona Revised Statutes, as added by this act, for grants to
33 counties only for incarceration infrastructure and operating expenses,
34 including permanent, temporary and movable detainment facilities and tents
35 for immigration control.

36 2. \$15,000,000 to the border security fund established by section
37 41-2351, Arizona Revised Statutes, as added by this act, for grants to city,
38 town and county law enforcement agencies and city and county prosecutors for
39 border security personnel, physical barriers and other immigration
40 enforcement purposes.

41 3. \$10,000,000 to the department of public safety for the director to
42 expand the existing gang intelligence team enforcement mission into a gang
43 and immigration intelligence team enforcement mission for all existing gang
44 functions and new functions relating to immigration enforcement, including
45 border security, border personnel, incarceration infrastructure, including

1 permanent, temporary and movable detainment structures and tents, and design
2 and construction or reconstruction of border physical barriers. The director
3 shall coordinate with local and federal law enforcement officials and shall
4 keep the immigration enforcement function fully staffed with available state
5 and federal monies to ensure that no impediment exists to state and local law
6 enforcement for border protection and security throughout Arizona.

7 4. \$10,000,000 to the department of public safety for additional
8 highway patrol officers exclusively for border security.

9 B. The director of the department of public safety shall provide
10 quarterly reports to the joint legislative budget committee beginning October
11 1, 2006, regarding the use and effectiveness of the monies appropriated
12 pursuant to subsection A, paragraphs 3 and 4 of this section.

13 C. The department of administration shall send billing invoices to the
14 federal government to recover the amount of the appropriations in subsection
15 A of this section for deposit in the state general fund.

16 D. The appropriations made in subsection A of this section are exempt
17 from the provisions of section 35-190, Arizona Revised Statutes, relating to
18 lapsing of appropriations.

19 Sec. 8. Legislative intent

20 It is the intent of the legislature that law enforcement agencies and
21 personnel fully comply with section 41-1702, Arizona Revised Statutes, as
22 added by this act, to accomplish the goal of supplementing the efforts of
23 federal law enforcement agencies, notwithstanding any local law enforcement
24 policies that would otherwise inhibit such compliance.

25 Sec. 9. Legislative intent

26 For the purposes of the appropriation to the department of public
27 safety for the gang and immigration intelligence team enforcement mission in
28 section 7, subsection A, paragraph 3 of this act, it is the intent of the
29 legislature to expand the existing gang intelligence team enforcement mission
30 and not to add a new unit or increased administration to the mission.